

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

CURTIS N. EDDY,

Case No. 12-CV-0065 (PJS/JJK)

Plaintiff,

v.

ORDER ADOPTING REPORT AND
RECOMMENDATION

MICHAEL ASTRUE,
Commissioner of Social Security,

Defendant.

Gerald S. Weinrich, WEINRICH LAW OFFICE, for plaintiff.

Gregory G. Brooker, UNITED STATES ATTORNEY'S OFFICE, for defendant.

This matter is before the Court on plaintiff Curtis Eddy's objection to the December 18, 2012 Report and Recommendation ("R&R") of Magistrate Judge Jeffrey J. Keyes. Judge Keyes recommends granting the Commissioner's motion for summary judgment and denying Eddy's motion for summary judgment. The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Based on that review, the Court adopts the R&R.

Only one matter merits comment: In his objection, Eddy faults the Administrative Law Judge ("ALJ") for failing to obtain expert medical evidence concerning whether his impairment meets or equals the listing for disorder of the spine found in 20 C.F.R. Part 404, Subpart P, App. 1, § 1.04(A). However, "when an ALJ determines that equivalency is not established, the requirement to receive expert opinion evidence into the record may be satisfied by a Disability Determination and Transmittal form or other document that reflects the findings of the consultant and is signed by the consultant." *Carlson v. Astrue*, 604 F.3d 589, 593 (8th Cir. 2010). The

record contains two such signed forms (an initial determination and a second determination upon request for reconsideration), Tr. 57-60,¹ and thus the requirement of expert evidence is met.

ORDER

Based on all of the files, records, and proceedings herein, the Court ADOPTS the R&R [Docket No. 16]. Accordingly, IT IS HEREBY ORDERED THAT:

1. Plaintiff's motion for summary judgment [Docket No. 8] is DENIED.
2. Defendant's motion for summary judgment [Docket No. 13] is GRANTED.
3. Plaintiff's complaint [Docket No. 1] is DISMISSED WITH PREJUDICE AND
ON THE MERITS.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 28, 2013

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge

¹The signature lines on these documents incorporate the signatures on documents found elsewhere in the record at Tr. 301, 307.